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10/577,262

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EXAMINER

TOPGYAL, GELEK W

ART UNIT

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2621

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,262	<b>Applicant(s)</b> JONES, RICHARD EARL	
	<b>Examiner</b> GELEK TOPGYAL	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claims 1-14** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 7 and 13 recites the limitations of *"wherein if it is determined that the signal does not include the second audio component, further comprising: determining whether the first audio component of said signal was received as stereo left and right audio components"*. In the present specification, page 3 merely states that "in the case that the SAP audio is not broadcast then the DVD recorder's controller 101 would only enable recording the primary audio as either stereo or mono (if stereo is not broadcast) encoded stream. Similarly, page 4 of the instant specification states "when the secondary audio program SAP signal was not present for decoding, and the primary audio signal was received and decoded as stereo left and right audio components 204 to the video broadcast, then the primary audio is recorded by the disk drive as encoded left and right audio components 205. When the primary audio was broadcast as a monaural audio component to the video broadcast, then the audio is recorded as a mono encoded stream 206". There is no

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recitation for a determining whether the first audio component of said signal was received as stereo left and right audio components. What the instant specification states is the mere ability to simply record the broadcast audio whether it is a mono or stereo encoded stream when a secondary audio signal does not exist. Therefore, the examiner believes that the newly added limitations present new matter as it presents a new step that is not supported by the instant specification. Similarly claims 2-6, 8-12 and 14 are dependent on the rejected base claims and; therefore, inherit the deficiencies thereof.

### ***Response to Arguments***

3. Applicant's arguments filed 5/14/2010 have been fully considered but they are not persuasive.

4. In re pages 5-7, the applicants argue that Figs. 3 and 5 of Moon merely teaches a decoding process and the provisions for selecting two channels. It is argued that Moon fails to teach any analysis or determination made with regards to whether a sub-audio data stream is included in an audio data stream in the first place. In re page 7, the applicants assert that Moon fails to teach the newly added limitations.

5. In response, the examiner respectfully disagrees. Regarding Fig. 3, the examiner cited the last example as a visual representation of what happens to a first and second channel data during reproduction. In a situation where the first and second channels are recorded as first and second mono components, the user is given the chance to select one of the two channels during reproduction. It's still the position of the examiner that in order for Moon to record the first and second audio data as separate first and second audio data, the system has to determine the existence of a second audio signal that

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would facilitate the system to record the second audio signal in the first place. In response to the argument with respect to the newly added limitations, it is noted that the independent claims recite "new matter", however, the applicants are directed to the prior art rejection below.

6. In re pages 8-9, the applicants present the argument that Murase fails to cure the deficiencies of Moon and that there's no recitation in Murase that teaches "any step which determines whether a audio/video signal includes a secondary audio signal and wherein if the answer is negative, further determining whether the primary audio was decoded as stereo. It is also argued that Murase is not concerned with how a single primary audio component may be processed.

7. In response, the examiner respectfully disagrees. Murase does in fact process a single primary audio component when only the primary audio component is present in the audio signal as depicted in col. 5, lines 55-59. Furthermore, Murase teaches in Fig. 47, step #7 to determine whether a second AV data is present. The very same determination step is also taught in col. 32, lines 6-15 where it is detected whether more than a single audio stream is present.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. **Claims 1-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Moon et al. (US 6,813,281) in view of Murase et al. (US 6,611,655).

**Regarding claims 1 and 13**, Moon et al. teaches a method comprising the steps of:

receiving audio components of a signal (col.3 , lines 46-54 teaches of a recorder that is able to record/reproduce a broadcast video signal);

enabling recording of a first audio component of said signal as a mono audio component and recording a second audio component of said signal as a second mono audio component if it is determined that the signal includes the second audio component (Fig. 3, last example (congruent to Fig. 5's reproducing illustration) and col. 3, lines 46-54 teaches of recording a first CH0 data and a second CH1 data as separate mono streams. In order for the system to be able to record the audio data as two separate streams it has to detect the existence of two separate streams); and

Moon's system allows for the recording of an incoming primary stream as a two different channels (Fig. 3, 2ch DATA stored as LEFT AUDIO and RIGHT AUDIO). However, Moon et al. fails to particularly teach the step of determining whether the signal includes a second audio component; wherein if it is determined that the signal does not include the second audio component, further comprising determining whether the first audio component of said signal was received as stereo left and right audio components; enabling recording of said first audio component as stereo audio components when only said first audio component is contained in said signal and it is

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determined that the first audio component was received as a stereo left and right audio components.

Murase et al. teaches determining whether the signal includes a second audio component (in Fig. 47, step #7, col. 32, lines 6-15 whether the audio signal contains a second audio component); wherein if it is determined that the signal does not include the second audio component, further comprising determining whether the first audio component of said signal was received as stereo left and right audio components (col.

15, lines 62+ teaches of a first Audio stream 1 that consists of stereo signal.

Furthermore, col. 16, lines 1-4 teaches of an instance where only a single audio stream 1 is detected and further recorded and therefore only recording a single stereo signal is met. As per the 112 rejection above, the limitation is given the general breadth of the specification, i.e., if a second signal is not present, then the first audio signal is merely recorded without the need for another determination step) enabling recording of said first audio component as stereo audio components when only said first audio component is contained in said signal and it is determined that the first audio component was received as a stereo left and right audio components (col. 15, lines 62+ teaches of a first Audio stream 1 that consists of stereo signal. Furthermore, col. 16, lines 1-4 teaches of an instance where only a single audio stream 1 is detected and further recorded and therefore only recording a single stereo signal is met. As per the 112 rejection above, the limitation is given the general breadth of the specification, i.e., if a second signal is not present, then the first audio signal is merely recorded without the need for another determination step).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the ability to detect the existence of a second audio signal and to detect the existence of a stereo left and right and to record an audio component as a stereo audio component as taught by Murase et al. into the system of Moon et al. so that a user can listen to two separate channels that correlate to each other in the same timeline.

**Regarding claim 2**, Moon et al. teaches the claimed wherein said first audio component comprises a primary audio component of a video program content (col. 1, lines 31-37 and col. 3, lines 32-37 teaches of broadcasting video with several audio components).

**Regarding claim 3**, Moon et al. teaches the claimed wherein said second audio component comprises a secondary audio program content (col. 1, lines 31-37 and col. 3, lines 32-37 teaches of broadcasting video with several audio components).

**Regarding claim 4**, Moon et al. teaches the claimed wherein further comprising the step of enabling recording of said first audio component as a mono audio component when only said first audio component is contained in said signal, said first audio component being a mono audio component (As similarly discussed in claim 1 above, Fig. 3 teaches of 1ch DATA being recorded as a mono audio stream).

**Regarding claim 5**, Moon et al. teaches the claimed wherein when each of said first and said second audio components are recorded, they are recorded as encoded mono audio streams (col. 3 ,lines 46-64 teaches that the first and second audio components are encoded and recorded as CH0 and CH1 audio data).



**Regarding claim 6**, Moon et al. teaches the claimed wherein when only said first audio component is available from said signal, said first audio component is then recorded as a mono encoded stereo stream (As similarly discussed in claim 1 above, Fig. 3 teaches of 1ch DATA being recorded as a mono audio stream).

**Apparatus claims 7-12** are rejected for the same reasons as discussed above in method claims 1-6, respectively.

**Method claim 14** is rejected for the same reasons as discussed in claim 4 above.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GELEK TOPGYAL whose telephone number is (571)272-8891. The examiner can normally be reached on 8:30am -5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gelek Topgyal/  
Examiner, Art Unit 2621

/Thai Tran/  
Supervisory Patent Examiner, Art Unit 2621